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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,550	07/16/2003	Bart ter Braak	09424.0190US01	8445
23552	7590	10/11/2005	EXAMINER	
MERCHANT & GOULD PC			FERGUSON, MICHAEL P	
P.O. BOX 2903			ART UNIT	
MINNEAPOLIS, MN 55402-0903			PAPER NUMBER	

3679

DATE MAILED: 10/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/620,550

Applicant(s)

TER BRAAK, BART

Examiner

Michael P. Ferguson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-17 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-17 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 26, 2005 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 17 (line 1) recites "A curtain rail system". However, the only element claimed within the system is a safety connection. It is unclear as to what other elements constitute a "curtain rail system". It is unclear as to what is the structural cooperative relationship between the safety connection and such elements supposedly constituting such curtain rail system.

Claim 17 (line 4) recites "the other of the retaining elements is connected to an environment". It is unclear as to what constitutes an "environment". The conventional

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meaning of an "environment" is an object's surroundings; it is unclear as to how the other retaining element can be connected to its "surroundings".

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 3-17 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Franklin (US 3,540,089).

As to claim 17, Franklin discloses a curtain rail system (the collar **C** is capable of being hung on a curtain rail, thus defining a curtain rail system) provided with a safety connection, the safety connection comprising a first **44** and a second **31** retaining element, wherein after mounting, one of the retaining elements is coupled to an object **C** to be suspended and the other of the retaining elements **31** is connected to an environment **B**, the first and second retaining elements being detachably connected to each other such that, under the influence of a tensile force applied to the retaining elements, the retaining elements disconnect, wherein the second retaining element comprises an integrally formed resilient lip **31**, and wherein the first and second retaining elements are configured to cooperate via the integrally formed resilient lip to effect the detachable coupling of the retaining elements (Figures 1 and 2).

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As to claim 3, Franklin discloses a system wherein, after mounting, the resilient lip **31** extends, on average, in a direction including an angle with a vertical plane in the range of approximately 10- 45 degrees (Figure 2).

As to claim 4, Franklin discloses a system wherein the resilient lip **31**, after mounting, extends, on average, in a direction including an angle with a vertical plane in the range of approximately 15- 30 degrees (Figure 2).

As to claim 5, Franklin discloses a system wherein the resilient lip **31** is manufactured from plastic (column 3 lines 25-29).

As to claim 6, Franklin discloses a system wherein a front end of the resilient lip **31** of the second retaining element **31** touches a slide-off surface of the first retaining element **44** (Figure 2).

As to claim 7, Franklin discloses a system wherein the front lip end comprises a sliding surface which is substantially parallel (tangent) to part of the slide-off surface of the first retaining element **44** (Figure 2).

As to claim 8, Franklin discloses a system wherein the slide-off surface of the first retaining element **44** after mounting, viewed in vertical cross section, includes an angle with a vertical plane in the range of 45- 70 degrees (Figure 2).

As to claim 9, Franklin discloses a system wherein the angle is in the range of 60-70 degrees (Figure 2).

As to claim 10, Franklin discloses a system wherein the first retaining element **44**, after mounting, extends partly through a substantially vertical passage of the second retaining element **31** (Figure 2).

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As to claim 11, Franklin discloses a system wherein the first retaining element **44** is provided with a widened head **44** located, after mounting, above the passage, which head touches a part, such as the front end of the resilient lip **31** of the second retaining element **31** (Figure 2).

As to claim 12, Franklin discloses a system wherein the widened head **44** of the first retaining element **44** is provided with the slide-off surface (Figure 2).

As to claim 13, Franklin discloses a system wherein the second retaining element **31** is provided with a number of resilient lips **31** extending obliquely towards each other for forming a constriction of the passage of the second retaining element (Figure 2).

As to claim 14, Franklin discloses a system wherein the first **44** and second **31** retaining elements are each of rotation-symmetrical design relative to an axis of symmetry, which is vertical, after mounting (Figure 2).

As to claim 15, Franklin discloses a system wherein the retaining element **31** connected to the environment **B** is mounted in a tube **18** having an inside diameter of less than 2 (inherently; Figure 2).

As to claim 16, Franklin discloses a system wherein the tube **18** has a diameter in the range of 10- 15 mm (inherently; Figure 2).

As to claim 20, Franklin discloses a system wherein the integrally formed resilient lip **31** comprises a radially outward extending resilient lip (Figure 2).

6. Claims 3-7,10-12,14-17 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Bradley (US 5,957,612).

As to claim 17, Bradley discloses a curtain rail system, provided with a safety connection, the safety connection comprising a first **70** and a second **71,72** retaining element, wherein after mounting, one of the retaining elements is coupled to an object **2** to be suspended and the other of the retaining elements is connected to an environment (ceiling), the first and second retaining element being detachably connected to each other such that, under the influence of a tensile force applied to the retaining elements, the retaining elements disconnect, wherein the second retaining element **71** comprises an integrally formed resilient lip **72** (ring **72** defines the edge of hollow female receiver **71**, and is formed to act as a single unit with female receiver **71**; thus defining an integrally formed resilient lip), and wherein the first and second retaining elements are configured to cooperate via the integrally formed resilient lip to effect the detachable coupling of the retaining elements (Figures 1,3 and 5).

As to claims 3 and 4, Bradley discloses a curtain rail system wherein, after mounting (on first retaining element **70**), the resilient lip **72** extends (over the cone angle of first retaining element **70**), on average, in a direction including an angle with a vertical plane in the range of approximately 15- 30 degrees (Figure 5).

As to claim 5, Bradley discloses a curtain rail system wherein the resilient lip **72** is manufactured from plastic (column 5 lines 50-54).

As to claim 6, Bradley discloses a curtain rail system wherein a front end of the resilient lip **72** of the second retaining element **71** touches a slide-off surface (cone angle of first retaining element **70**) of the first retaining element **70** (when mounted on first retaining element **70**; Figure 5).

As to claim 7, Bradley discloses a curtain rail system wherein the front lip end **72** comprises a sliding surface which is substantially parallel (tangent) to part of the slide-off surface (cone angle) of the first retaining element **70** (Figure 5).

As to claim 10, Bradley discloses a curtain rail system wherein the first retaining element **70**, after mounting, extends partly through a substantially vertical passage of the second retaining element **71** (Figure 5).

As to claim 11, Bradley discloses a curtain rail system wherein the first retaining element **70** is provided with a widened head located, after mounting, above the passage, which head touches a part, such as the front end of the resilient lip **72** of the second retaining element **71** (Figure 5).

As to claim 12, Bradley discloses a curtain rail system wherein the widened head of the first retaining element **70** is provided with the slide-off surface (cone angle; Figure 5).

As to claim 14, Bradley discloses a curtain rail system wherein the first **70** and second **71** retaining elements are each of rotation-symmetrical design relative to an axis of symmetry, which is vertical, after mounting (Figure 5).

As to claim 15, Bradley discloses a curtain rail system wherein the second retaining element **72** connected to the environment (ceiling) is mounted in a tube having an inside diameter of less than 2 cm (inherently; Figure 7).

As to claim 16, Bradley discloses a curtain rail system wherein the tube has a diameter in the range of 10- 15 mm (inherently; Figure 7).

As to claim 20, Bradley discloses a curtain rail system wherein the integrally formed resilient lip **72** comprises a radially outward extending resilient lip (when mounting on first retaining element **70**; Figure 5).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bradley.

As to claims 8 and 9, Bradley fails to disclose a curtain rail system wherein the slide-off surface (cone angle of first retaining element **70**) of the first retaining element after mounting, viewed in a vertical cross section, includes an angle with a vertical plane in the range of 60-70 degrees.

The applicant is reminded that a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the curtain rail system as disclosed by Bradley to have a slide off surface angle in the range of 60-70 degrees as such practice is a design consideration within the skill of the art.

Response to Arguments

9. Applicant's arguments filed August 26, 2005 have been fully considered but they are not persuasive.

As to claim 17, Attorney argues that:

Bradley does not disclose a curtain rail system *wherein the second retaining element comprises an integrally formed resilient lip, and the first and second retaining elements are configured to cooperate via the integrally formed resilient lip to effect the detachable coupling of the retaining elements.*

Examiner disagrees. As to claim 17, Bradley discloses a curtain rail system wherein the second retaining element **71** comprises an integrally formed resilient lip **72** (ring **72** defines the edge of hollow female receiver **71**, and is formed to act as a single unit with female receiver **71**; thus defining an integrally formed resilient lip), and the first **70** and second retaining elements are configured to cooperate via the integrally formed resilient lip to effect the detachable coupling of the retaining elements (Figures 1 and 5).

Conclusion

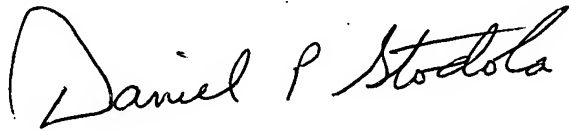
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600